

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-7, SUB 1130**

**In the Matter of:)
Application of Duke Energy)
Carolinas, LLC for Approval of)
Demand-Side Management and) **NCSEA’S POST-HEARING BRIEF**
Energy Efficiency Cost Recovery)
Rider Pursuant to N.C. Gen. Stat.)
62-133.9 and Commission Rule R8-)
69)**

NCSEA’S POST-HEARING BRIEF

The North Carolina Sustainable Energy Association (“NCSEA”) submits this post-hearing brief in accordance with the July 24, 2017 *Order Granting Extension of Time to File Proposed Orders and Briefs* issued by the North Carolina Utilities Commission (“Commission”) in this docket.

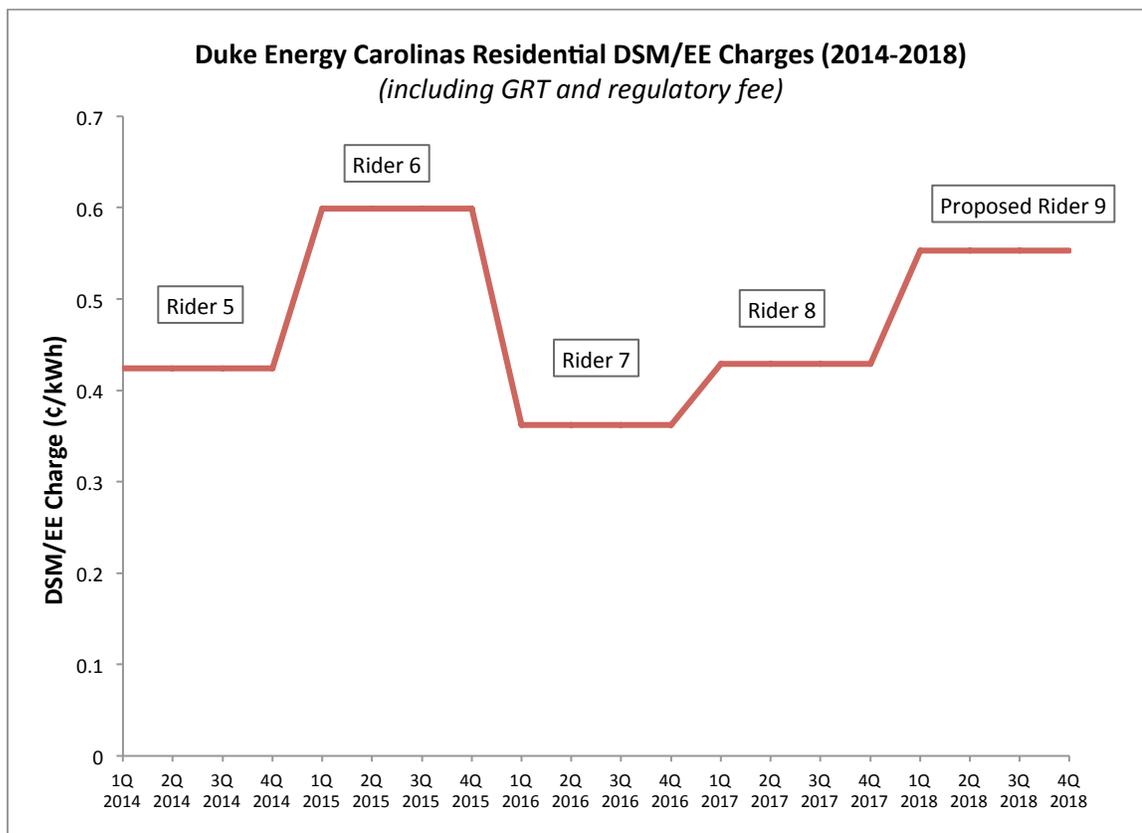
NCSEA seeks to (1) provide a temporal context for the proposed demand-side management (“DSM”) and energy efficiency (“EE”) cost recovery charges proposed by Duke Energy Carolinas, LLC (“DEC”) in this docket, (2) highlight the impact that avoided cost rates have on issues beyond independent power producers, and (3) object to the failure of DEC and the Public Staff to include all parties in settlement negotiations.

DEC’S PROPOSED RIDER CHARGES IN CONTEXT

In this proceeding, DEC requests approval of a DSM/EE cost recovery rider for 2018, which is the ninth such cost recovery rider proposed by the company (“Rider 9”). For Rider 9, DEC requests a DSM/EE charge of 0.5529 ¢/kWh for residential ratepayers. Figure 1 below depicts the proposed Rider 9 DSM/EE ¢/kWh charge for residential ratepayers in addition to charges that were approved in the years following the October 29, 2013, *Order Approving DSM/EE Programs and Stipulation of Settlement* in Docket

No. E-7, Sub 1032 (“Sub 1032 Order”), which established the current cost recovery mechanism for DEC’s DSM/EE programs.

Figure 1¹

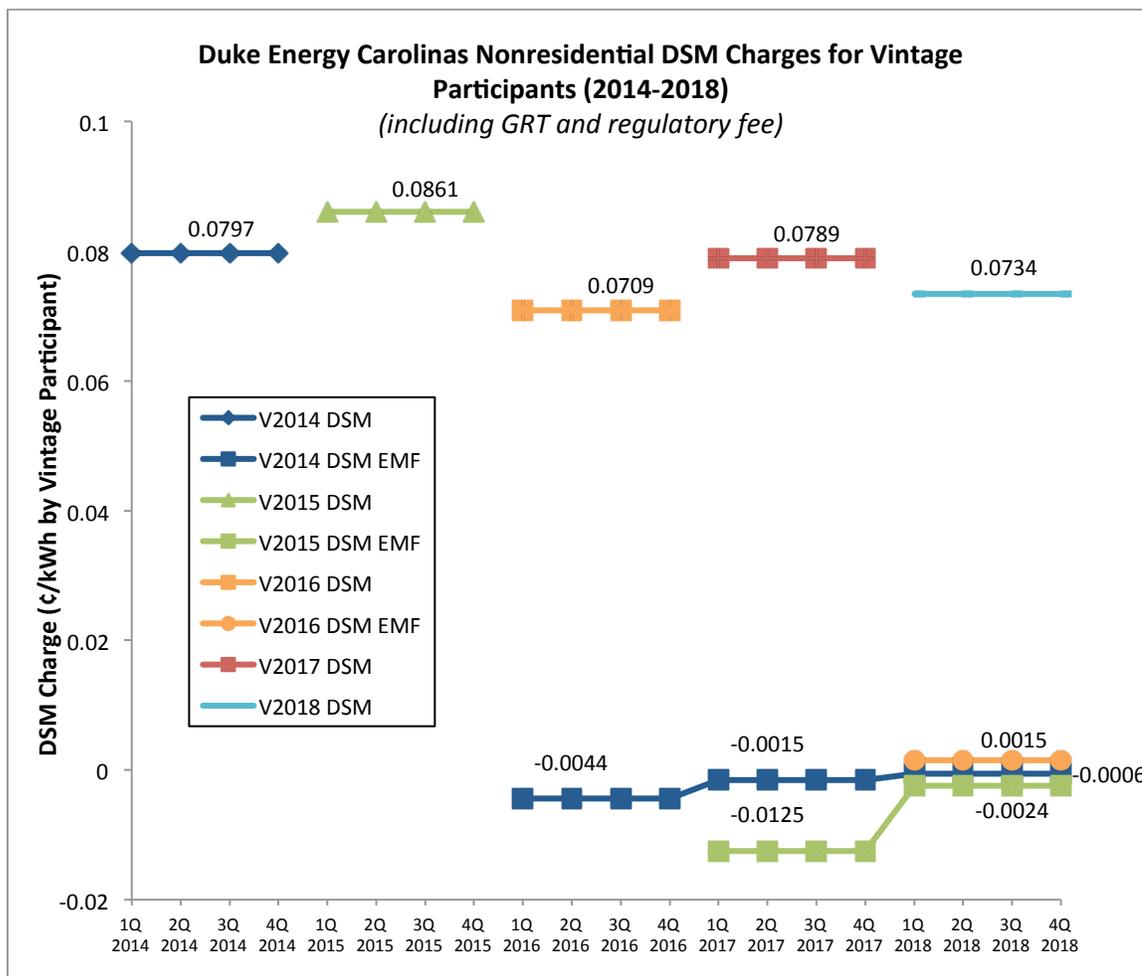


For nonresidential ratepayers subject to the Vintage 2018 DSM program charge component of the cost recovery rider, DEC proposes a 0.0734 ¢/kWh charge. Figure 2 below depicts the proposed Vintage 2018 ¢/kWh DSM program charge for nonresidential

¹ Duke Energy Carolinas' Revised Tariff for Vintage 1 of Rider EE, p. 3, Docket No. E-7, Sub 831 (August 13, 2010); Order Approving Notice to Customers, Appendix A, Docket No. E-7, Sub 941 (September 20, 2010); Order Approving Notice to Customers of Change In Rates, Appendix A, p. 1, Docket No. E-7, Sub 979 (December 16, 2011); Order Approving Notice to Customers, p. 1, Docket No. E-7, Sub 1001 (October 5, 2012); Order Approving Notice to Customers, Appendix A, p. 2, Docket No. E-7, Sub 1031 (December 2, 2013); Order Approving Notice to Customers of Changes in Rates, Appendix A, p. 2, Docket No. E-7, Sub 1050 (November 26, 2014); Order Approving Notice to Customers of Change in Rates, Docket No. E-7, Sub 1073 (December 9, 2015); Duke Energy Carolinas, LLC's DSM/EE Compliance Tariff, Docket No. E-7, Sub 1105 (October 5, 2016); Supplemental Miller Exhibit 7, Docket No. E-7, Sub 1130 (May 31, 2017).

ratepayers in addition to charges that were approved in the years following the Sub 1032 Order and subsequent experience modification factor (“EMF”) adjustments.

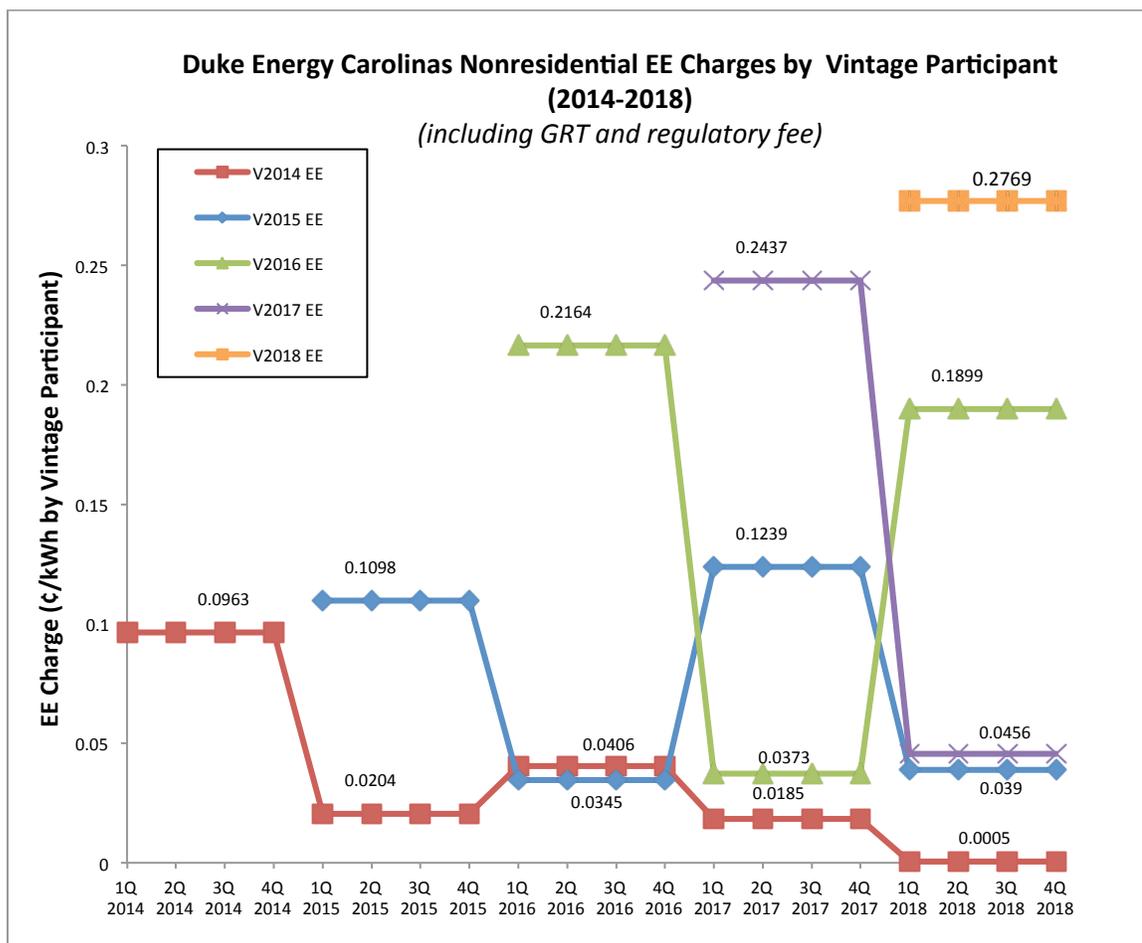
Figure 2²



For nonresidential ratepayers subject to the Vintage 2018 EE program charge component of the cost recovery rider, DEC proposes a 0.2769 ¢/kWh charge. Figure 3 below depicts the proposed Vintage 2018 ¢/kWh EE program charge for nonresidential ratepayers in addition to charges that were approved in the years following the Sub 1032 Order and subsequent EMF adjustments.

² Id.

Figure 3³



IMPORTANCE OF AVOIDED COSTS IN ENERGY EFFICIENCY COST-EFFECTIVENESS

The Commission’s calculation of avoided cost rates has impacts beyond the biennial proceeding to determine payments to independent power producers. Of relevance to this proceeding, avoided cost calculations and rates are used to measure the cost-effectiveness of DEC’s suite of DSM/EE programs.

Currently, the cost-effectiveness of DEC’s DSM/EE programs are measured against the avoided cost rates calculated in their 2012 integrated resource plans. In the current biennial avoided cost proceeding, DEC testified that avoided cost rates of the

³ Id.

same vintage, and from 2014, are “now stale and significantly higher” than current avoided cost rates. *Transcript of Testimony Heard Tuesday June 6, 2017 in Raleigh*, p. 85, Docket No. E-7, Sub 1130 (June 26, 2017) (“*Transcript*”). At its core, DEC is asserting that avoided cost rates paid to qualifying facilities are too high and harmful to ratepayers, but they are appropriate for calculating DEC’s Portfolio Performance Incentive (“PPI”) in the current proceeding. As a result, the Public Staff and DEC have reached a settlement for future DSM/EE program years that would measure the cost-effectiveness of DEC’s DSM/EE programs using more current avoided cost calculations. *See, Transcript* at pp. 180-183.

Lower avoided cost rates combined with a proven trend of electricity-consuming equipment becoming more efficient by default challenge the cost effectiveness of DSM/EE programs. As Public Staff Witness Floyd testified in this proceeding, “Any decrease in avoided cost inputs is going to decrease the benefits in these cost-effectiveness calculations, and the inverse is true if it increases.” *Transcript* at p. 263. A reflection of the positive trend of electricity-consuming equipment becoming more efficient by default is found in the fact that per-capita residential electricity sales have fallen since 2010. *See*, U.S. Energy Information Administration, *Today in Energy*, <https://www.eia.gov/todayinenergy/detail.php?id=32212> (July 26, 2017). DEC acknowledged as much in a recent filing to modify their heating, ventilation, and air conditioning EE program,

As the efficiency standards have increased, the incremental efficiency associated with each successive SEER rating increase, and the incremental cost of exceeding the standard SEER rating correspondingly increases. For this reason, the costs associated with the TRC test, which accounts for the participant’s out-of-pocket cost, is in many ways the most difficult to influence because it is beyond the Company’s control.

Proposed Modifications to the Residential HVAC Energy Efficiency Program, p. 1, Docket No. E-7, Sub 1032 (July 201, 2017).

APPROPRIATE INCLUSION OF PARTIES IN SETTLEMENT NEGOTIATIONS

While NCSEA does not object to the settlement reached by DEC and the Public Staff, NCSEA takes issue with the way in which it was reached. NCSEA was party to the settlement that set forth the cost-effectiveness measures for DEC's DSM/EE programs and cost recovery, and was adopted by the Commission in the Sub 1032 Order. The Commission recently stated "that it is preferable when manageable for all parties to have an opportunity to participate in the settlement negotiations." *Order Declining to Adopt Proposed Settlement Rules*, p. 13, Docket No. M-100, Sub 145, (March 1, 2017). However, despite being party to the stipulation adopted in the Sub 1032 Order, NCSEA was not invited to, or even alerted of, settlement negotiations in the current proceeding. As was made clear in this proceeding, multiple parties to the stipulation adopted in the Sub 1032 Order were not included in settlement negotiations in the current proceeding.

Q There were several other parties to the settlement in Docket E-7, Sub 103- -- 1032, were there not?

A Yes.

Q And those parties included parties to this docket - NC Sustainable Energy Association and Southern Alliance for Clean Energy?

A Subject to check, I believe you're correct, yes.

Q Those parties were not brought into the discussions about paragraph 69 of the Mechanism, correct?

A The discussions were regarding the differing interpretations that the Public Staff and the Company had of paragraph 69; that's correct.

Q Correct. And that paragraph 69 was a paragraph from a Mechanism that had been agreed to through settlement negotiations in connection with E-7, Sub 1032, correct?

A It was a product of the E-7, Sub 1032 Order, yes.

- Q And the proposal that DEC and the Public Staff have before the Commission today would modify the language of that Settlement Agreement and attached Mechanism, correct?
- A It would modify it, yes.
- Q And again, subject to check, there were parties to the E-7, Sub 1032 Settlement Agreement that were not brought into the discussions of the agreement that is now proposed to the Commission?
- A The agreements were — the agreement and discussions were between the Public Staff and the Company only, correct.

Transcript at pp. 77-78. As stated above, NCSEA does not take issue with the settlement reached by DEC and the Public Staff. Despite the Commission's direction that it is preferable for all parties to have an opportunity to participate in settlement negotiations, NCSEA and the Southern Alliance for Clean Energy, who were both parties to the settlement in E-7, Sub 1032 and parties to the current docket, were not included in settlement negotiations, and no indication has been given by DEC or the Public Staff as to why inclusion would not have been "manageable."

CONCLUSION

Avoided cost rates impact issues beyond payments to independent power producers. As this proceeding has demonstrated, their impact on the cost-effectiveness of DSM/EE programs is of great importance. NCSEA is supportive of using avoided cost rates that are as recent as practicable, and thus does not object to the settlement reached by DEC and the Public Staff. NCSEA does object to the failure of DEC and the Public Staff to include all parties in settlement negotiations, despite the Commission's directive to do so when manageable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Post-Hearing Brief by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 3rd day of August, 2017.

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